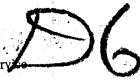


U.S. Department of Justice

Immigration and Naturalization Sery



OFFICE OF ADMINISTRATIVE APPEALS 425 Eye Street N.W. ULLB, 3rd Floor Washington, D.C. 20536



FILE:

WAC 97 019 53631

Office:

California Service Center

2000

IN RE: Petitioner:

Beneficiary:

Public Conv

APPLICATION: Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality

Act, 8 U.S.C. 1101(a)(15)(K)

IN BEHALF OF PETITIONER:

Self-represented

identifying data defeted to prevent clearly unwarranted avasion of nersonal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

> FOR THE ASSOCIATE COMMISSIONER, **AMINATIONS**

rrance M. O'Reilly, Director Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on a motion to reopen. The case will be remanded to the director for further action.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Vietnam, as the fiancee of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K).

The director denied the petition after determining that the petitioner had failed to respond to a request for additional evidence. She advised the petitioner that although her decision may not be appealed, he may file a motion to reopen in accordance with 8 C.F.R. 103.5(a)(2).

On April 1, 1997, the petitioner filed a motion to reopen. The motion, however, is not within the jurisdiction of the Associate Commissioner. Therefore, the case will be remanded to the director for further action.

ORDER: The case is remanded for appropriate action consistent with the above discussion and entry of a new decision.